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less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant as provided by § 96.134;

(10) The Block Grant will not be used to supplant State funding of alcohol and other drug prevention and treatment programs;

(11) For purposes of maintenance of effort pursuant to §§ 96.127(f), 96.128(f), and 96.134, the State will calculate the base using Generally Accepted Accounting Principles and the composition of the base will be applied consistently from year to year;

(12) The State will for the fiscal year for which the grant is provided comply with the restrictions on the expenditure of Block Grant funds as provided by § 96.135;

(13) The State will make the State Plan public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the State Plan and after the submission of the State Plan (including any revisions) to the Secretary as provided by § 1941 of the PHS Act;

(14) The State will for the fiscal year for which the grant is provided, provide for independent peer review to assess the quality, appropriateness, and efficacy of treatment services provided in the State to individuals under the program involved as required by § 96.136;

(15) The State has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an entity which is receiving amounts from the grant;

(16) The State will comply with chapter 75 of title 31, United States Code, pertaining to audits; and

(17) The State will abide by all applicable Federal laws and regulations, including those relating to lobbying (45 CFR part 93), drug-free workplace (45 CFR 76.600), discrimination (PHS Act Sec. 1947), false statements or failure to disclose certain events (PHS Act Sec. 1946), and, as to the State of Hawaii, services for Native Hawaiians (PHS Act Sec. 1953).

45 CFR Subtitle A (10–1–15 Edition)

(18) The State will comply with the requirements of 42 CFR part 54.

[58 FR 17070, Mar. 31, 1993, as amended at 61 FR 1508, Jan. 19, 1996; 66 FR 46227, Sept. 4, 2001; 68 FR 56448, Sept. 30, 2003]

§ 96.124 Certain allocations.

(a) States are required to expend the Block Grant on various activities in certain proportions. Specifically, as to treatment and prevention, the State shall expend the grant as follows:

(1) not less than 35 percent for prevention and treatment activities regarding alcohol; and

(2) not less than 35 percent for prevention and treatment activities regarding other drugs.

(b) The States are also to expend the Block Grant on primary prevention programs as follows:

(1) Consistent with § 96.125, the State shall expend not less than 20 percent for programs for individuals who do not require treatment for substance abuse, which programs—

(i) educate and counsel the individuals on such abuse; and

(ii) provide for activities to reduce the risk of such abuse by the individuals;

(2) The State shall, in carrying out paragraph (b)(1) of this section—

(i) give priority to programs for populations that are at risk of developing a pattern of such abuse; and

(ii) ensure that programs receiving priority under paragraph (b)(2)(i) of this section develop community-based strategies for prevention of such abuse, including strategies to discourage the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

(c) Subject to paragraph (d) of this section, a State is required to expend the Block Grant on women services as follows:

(1) The State for fiscal year 1993 shall expend not less than five percent of the grant to increase (relative to fiscal year 1992) the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs). The base for fiscal year 1993 shall be an amount equal to the fiscal

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year 1992 alcohol and drug services Block Grant expenditures and State expenditures for pregnant women and women with dependent children as described in paragraph (e) of this section, and to this base shall be added at least 5 percent of the 1993 Block Grant allotment. The base shall be calculated using Generally Accepted Accounting Principles and the composition of the base shall be applied consistently from year to year. States shall report the methods used to calculate their base for fiscal year 1992 expenditures on treatment for pregnant women and women with dependent children.

(2) For fiscal year 1994, the State shall, consistent with paragraph (c)(1) of this section, expend not less than five percent of the grant to increase (relative to fiscal year 1993) the availability of such services to pregnant women and women with dependent children.

(3) For grants beyond fiscal year 1994, the States shall expend no less than an amount equal to the amount expended by the State for fiscal year 1994.

(d) Upon the request of a State, the Secretary may waive all or part of the requirement in paragraph (c) of this section if the Secretary determines that the State is providing an adequate level of services for this population. In determining whether an adequate level of services is being provided the Secretary will review the extent to which such individuals are receiving services. This determination may be supported by a combination of criminal justice data, the National Drug and Treatment Units Survey, statewide needs assessment data, waiting list data, welfare department data, including medicaid expenditures, or other State statistical data that are systematically collected. The Secretary will also consider the extent to which the State offers the minimum services required under § 96.124(e). The Secretary shall approve or deny a request for a waiver not later than 120 days after the date on which the request is made. Any waiver provided by the Secretary shall be applicable only to the fiscal year involved.

(e) With respect to paragraph (c) of this section, the amount set aside for such services shall be expended on individuals who have no other financial

means of obtaining such services as provided in § 96.137. All programs providing such services will treat the family as a unit and therefore will admit both women and their children into treatment services, if appropriate. The State shall ensure that, at a minimum, treatment programs receiving funding for such services also provide or arrange for the provision of the following services to pregnant women and women with dependent children, including women who are attempting to regain custody of their children:

(1) primary medical care for women, including referral for prenatal care and, while the women are receiving such services, child care;

(2) primary pediatric care, including immunization, for their children;

(3) gender specific substance abuse treatment and other therapeutic interventions for women which may address issues of relationships, sexual and physical abuse and parenting, and child care while the women are receiving these services;

(4) therapeutic interventions for children in custody of women in treatment which may, among other things, address their developmental needs, their issues of sexual and physical abuse, and neglect; and

(5) sufficient case management and transportation to ensure that women and their children have access to services provided by paragraphs (e) (1) through (4) of this section.

(f) Procedures for the implementation of paragraphs (c) and (e) of this section will be developed in consultation with the State Medical Director for Substance Abuse Services.

§ 96.125 Primary prevention.

(a) For purposes of § 96.124, each State/Territory shall develop and implement a comprehensive prevention program which includes a broad array of prevention strategies directed at *individuals not identified to be in need of treatment*. The comprehensive program shall be provided either directly or through one or more public or non-profit private entities. The comprehensive primary prevention program shall include activities and services provided in a variety of settings for both the general population, as well as targeting